



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

APR 27 1995

EPA Region 5 Records Ctr.

HSE-5J



206006

VIA FACSIMILE AND
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Mohammed Farhat Gheith
William H. Cooper, Co.
816 N. Spaulding
Chicago, IL 60651

Re: Unilateral Administrative Order Pursuant to CERCLA Section
106 for the Warehouse Building (P.I.N. 16-17-413-013)
5728 - 32 W. Roosevelt Road, Chicago, IL (Cook County)

Dear Mr. Gheith:

Enclosed please find a Unilateral Administrative Order issued by the U.S. Environmental Protection Agency ("EPA") under Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. Section 9601, et seq.

Please note that the Order allows an opportunity for a conference if requested within three (3) business days after issuance of the Order, or if no conference is requested, an opportunity to submit comments within seven (7) business days of issuance of the Order.

If you have any questions regarding the Order, feel free to contact Andrew Warren, Assistant Regional Counsel, at (312) 353-5485 or Charles Gebien, On-Scene Coordinator, at (312) 353-7645.

Sincerely yours,

William E. Munro, Director
Waste Management Division

Enclosure



Printed on Recycled Paper

cc: Edward Grossman, Esq.
Chicago Legal Clinic, Inc.
South Chicago Office
2938 E. 91st Street
Chicago, IL 60617

Gary King, Deputy Manager
Division of Land Pollution Control
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN THE MATTER OF:)	Docket No. V-W- '95-C-292
)	
West Roosevelt Road)	ADMINISTRATIVE ORDER
Drum Site)	PURSUANT TO SECTION 106(a)
)	OF THE COMPREHENSIVE
)	ENVIRONMENTAL RESPONSE,
Respondent:)	COMPENSATION, AND
)	LIABILITY ACT OF 1980,
Mohammed Farhat Gheith)	AS AMENDED, 42 U.S.C.
)	SECTION 9606(a)

I. JURISDICTION AND GENERAL PROVISIONS

This Order is issued pursuant to the authority vested in the President of the United States by section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a), and delegated to the Administrator of the United States Environmental Protection Agency ("EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Waste Management Division, Region V, by Regional Delegation Nos. 14-14-A and 14-14-B.

This Order pertains to property located at 5728 - 32 W. Roosevelt Road, Chicago, Illinois (Cook County) [P.I.N. 16-17-413-013] (the "West Roosevelt Road Drum Site" or the "Site"). This Order requires the Respondent to conduct removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

EPA has notified the State of Illinois of this action pursuant to section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

II. PARTIES BOUND

This Order applies to and is binding upon Respondent and Respondent's, receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Order.

Respondent shall ensure that its contractors, subcontractors, and representatives comply with this Order. Respondent shall be responsible for any noncompliance.

III. FINDINGS OF FACT

Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds that:

1. The Site is located at 5728 - 32 West Roosevelt Road, in a mixed industrial area of Chicago, Cook County, Illinois; the site is bordered by commercial properties on the west, north, and east. A residential neighborhood is located south of the site, directly across Roosevelt Road.
2. The Site consists of two buildings and two structures formerly used as grain silos.
3. The buildings on the Site are in deteriorating condition and have been badly vandalized. Portions of the roof and second floor in one building have collapsed onto the main floor near the drummed wastes, and most of the windows are broken. Although some of the doors and windows in that building have been boarded with plywood, vandals have pulled the plywood from the doors to gain access.
4. On October 24, 1994, the Illinois Environmental Protection Agency ("IEPA") was notified of conditions at the Site and immediately conducted an inspection of the premises. A leaking drum was labeled thioglycolic acid (a.k.a. mercaptoacetic acid), a corrosive material. The IEPA measured the pH of the thioglycolic acid and reported a level of 0.0 standard units.
5. On January 27, 1995, the U.S. EPA, U.S. EPA's Technical Assistance Team ("TAT"), IEPA, and the Chicago Department of the Environment ("CDOE"), conducted a site assessment at the Site; the Site was found to be unsecured by fencing or other means, and access to the buildings was easily gained because of open doorways and broken windows.
6. During the Site assessment, approximately 300 drums were observed in one of the buildings. Many of the drums are actively leaking their contents to the floor. Drums and other containers are stored together and in some areas are triple stacked with no consideration of whether the drums are of a compatible chemical nature.
7. During the Site assessment, samples were collected from the drums and from spilled material present on the floor. Through

laboratory analysis, the drums and other materials were identified as RCRA corrosive and ignitable hazardous wastes.

8. During the Site assessment, drum labels observed at the site included aluminum chloride, thioglycolic acid, triethanolamine 99%, ethyl phthalate, and diethylene glycol.
9. Approximately fifty compressed gas cylinders, some of which were labeled as oxygen and acetylene, were found scattered in the indoor and outdoor areas of the site.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, EPA determines that:

1. The West Roosevelt Road Drum Site is a "facility" as defined by section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
2. Thioglycolic acid, triethanolamine 99%, ethyl phthalate, and diethylene glycol are "hazardous substances" as defined by section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
3. The Respondent is a "person" as defined by section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
4. Respondent Mohammed Farhat Gheith is either a person who at the time of disposal of any hazardous substances owned or operated the West Roosevelt Road Drum Site, or who arranged for disposal or transport for disposal of hazardous substances at the West Roosevelt Road Drum Site. Respondent is therefore a liable person under section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
5. The conditions described in the Findings of Fact above constitute an actual or threatened "release" into the "environment" as defined by sections 101(8) and (22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).
6. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR Part 300. These factors include, but are not limited to, the following:
 - a. actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants; this factor is present at the Site due to the existence of open drums and containers of Resource Conservation and Recovery Act (RCRA) hazardous wastes (D001, D002, D003, and U088) at the site. Some of the containers are

leaking their contents to the floor of one building, and none of the drums are protected from the public.

The unsecured and deteriorating containers of hazardous wastes at the Site also pose a direct contact and inhalation hazard to persons who may gain access to the building. Specifically, labels of the following substances were observed at the site in unsecured containers: (1) aluminum chloride -- one form of aluminum chloride will react violently with water and generate hydrogen chloride gas; additionally, contact with metal and water may release hydrogen gas, presenting a possible fire hazard. The pure product is classified as a corrosive; (2) thioglycolic acid -- skin irritant with strong irritating odor; (3) triethanolamine 99% -- combustible liquid, skin irritant and possible carcinogen; (4) ethyl phthalate -- poisonous and corrosive liquid, found to be a RCRA hazardous waste by toxicity (U088); diethylene glycol -- poisonous and combustible liquid used as an antifreeze.

b. hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release; this factor is present at the Site due to the existence of approximately 300 drums, some of which have been identified as RCRA hazardous wastes (D001, D002, D003, and U088) within the site. Many of the drums have leaked and are actively leaking contents to the floor. Drums and other containers are stored together, in some areas triple stacked, without regard to chemical compatibility. Approximately fifty compressed gas cylinders, some of which were labeled as oxygen and acetylene, were found scattered in the indoor and outdoor areas of the site.

c. weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; this factor is present at the Site due to the existence of drums, containers, and gas cylinders at the site being exposed to the weather. The buildings on site are in deteriorating condition and have been badly vandalized. Portions of one building roof and a second floor have collapsed onto the main floor near the drummed wastes and most of the windows are broken. Utility services at the site have been disconnected since the facility was abandoned; extreme heat or cold and precipitation could cause accelerated deterioration of the drums. Many of the drum lids and sides of the drums have corroded and have already released their contents to the building floor. Flooding conditions in the Site building may release spillage of hazardous wastes to outdoor areas.

d. threat of fire or explosion; this factor is present at the Site due to the existence of drummed flammable liquids and water reactive wastes at the Site. Approximately fifty compressed gas cylinders, some of which were labeled as oxygen and acetylene, were found scattered in the indoor and outdoor areas of the site. The unsecured conditions at the Site may

allow acts of vandalism, which may result in a fire or explosion.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP and CERCLA.

V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, EPA hereby orders that Respondent perform the following actions:

1. Notice of Intent to Comply

Respondent shall notify EPA in writing within three (3) business days after the effective date of this Order of Respondent's irrevocable intent to comply with this Order. Failure of the Respondent to provide such notification within this time period shall be a violation of this Order.

2. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondent shall retain a contractor to implement the removal actions. Respondent shall notify EPA of the name and qualifications of such contractor, within five (5) business days of the effective date of this Order. Respondent shall also notify EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least five (5) business days prior to commencement of such work. EPA retains the right to disapprove of any of the contractors and/or subcontractors retained by the Respondent. If EPA disapproves a selected contractor, Respondent shall retain a different contractor within two (2) business days following EPA's disapproval and shall notify EPA of that contractor's name and qualifications within three (3) business days of EPA's disapproval.

Within five (5) business days after the effective date of this Order, the Respondent shall designate a Project Coordinator who shall be responsible for administration of all the Respondent's actions required by the Order and submit the designated coordinator's name, address, telephone number, and qualifications to EPA. To the greatest extent possible, the Project Coordinator shall be present on site or readily available during site work. EPA retains the right to disapprove of any Project Coordinator named by the Respondent. If EPA disapproves a selected Project

Coordinator, Respondent shall retain a different Project Coordinator within three (3) business days following EPA's disapproval and shall notify EPA of that person's name and qualifications within four (4) business days of EPA's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondent.

The EPA has designated Charles Gebien of the Emergency and Enforcement Response Branch, Region V, as its On-Scene Coordinator (OSC). Respondent shall direct all submissions required by this Order to the OSC at U.S. Environmental Protection Agency, Emergency and Enforcement Response Branch (HSE-5J), 77 West Jackson Blvd., Chicago, Illinois 60604, by certified or express mail. Respondent shall also send a copy of all submissions to Andrew Warren, Assistant Regional Counsel, 77 West Jackson Boulevard, CS-29A, Chicago, Illinois, 60606-3590. The Respondent is encouraged to make its submissions to EPA on recycled paper (which includes significant postconsumer waste paper content where possible) and using two-sided copies.

3. Work to Be Performed

Respondent shall perform, at a minimum, the following response activities:

- a. develop and implement a Site Work Plan that shall include a Health and Safety Plan, a Site Security Plan and a Quality Assurance/Quality Control (QA/QC) Plan;
- b. move all containers and gas cylinders to a securable storage area and overpack leaking or unstable containers. Separate containers judged incompatible based on the container label;
- c. sample contents of all containers and segregate, stage, and categorize for disposal;
- d. collect additional samples of waste spillage on floor areas, and categorize for disposal;
- e. consolidate materials into specified waste streams and package for transportation; and,
- f. make arrangements for off-site disposal of all characterized hazardous substances, pollutants, wastes, debris, and contaminants, at a RCRA/CERCLA approved disposal facility in accordance with the U.S. EPA off-site disposal rule [40 CFR section 300.440].

3.1 Work Plan and Implementation

Within ten (10) business days after the effective date of this Order, the Respondent shall submit to EPA for approval a draft Work Plan for performing the removal activities set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the activities required by this Order.

EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If EPA requires revisions, Respondent shall submit a revised draft Work Plan within seven (7) business days of notification. Respondent shall implement the Work Plan as finally approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondent shall notify EPA at least 48 hours prior to performing any on-site work pursuant to the EPA approved work plan.

Respondent shall not commence or undertake any removal actions at the Site without prior EPA approval.

3.2 Health and Safety Plan

Within ten (10) business days after the effective date of this Order, the Respondent shall submit a plan for EPA review and comment that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration (OSHA) regulations found at 29 CFR Part 1910. If EPA determines it is appropriate, the plan shall also include contingency planning. Respondent shall incorporate all changes to the plan recommended by EPA, and implement the plan during the pendency of the removal action.

3.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with EPA guidance. Upon request by EPA, Respondent shall have such a laboratory analyze samples submitted by EPA for quality assurance monitoring. Respondent shall provide to EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondent shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by EPA, Respondent shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondent's contractors or agents while performing work under this Order. Respondent shall notify EPA not less than three (3) business days in advance of any sample collection activity. EPA shall have the right to take any additional samples that it deems necessary.

3.4 Reporting

Respondent shall submit weekly written progress reports to EPA concerning activities undertaken pursuant to this Order, beginning seven (7) calendar days after the date of EPA's approval of the Work Plan, until termination of this Order, unless otherwise directed by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

If Respondent owns any portion of the Site, and any successor in title shall, at least thirty (30) days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to EPA and the State. The notice to EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.4 (Access to Property and Information).

3.5 Final Report

Within forty-five (45) calendar days after completion of all removal actions required under this Order, the Respondent shall submit for EPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the requirements set forth in section 300.165 of the NCP. The final report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

4. Access to Property and Information

Respondent shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to EPA employees, contractors, agents, consultants, designees, representatives, and State of Illinois representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which EPA determines to be necessary. Respondent shall submit to EPA, upon request, the results of all sampling or tests and all other data generated by Respondent's contractor(s) during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondent, Respondent shall obtain all necessary access agreements within fourteen (14) calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondent shall immediately notify EPA if, after using its best efforts, it is unable to obtain such agreements. Respondent shall describe in writing its efforts to obtain access. EPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as EPA deems appropriate.

5. Record Retention, Documentation, Availability of Information

Respondent shall preserve all documents and information relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondent shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA. In addition, Respondent shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of EPA.

6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by EPA, with the EPA Revised Off-Site Rule, 40 CFR § 300.440, 58 Federal Register 49215 (Sept. 22, 1993).

7. Compliance With Other Laws

All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA section 121(e) and 40 CFR section 300.415(i). In accordance with 40 CFR section 300.415(i), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondent shall immediately take all appropriate action to prevent, abate or minimize such release, or endangerment caused or threatened by the release. Respondent shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency and Enforcement Response Branch, Region V at (312) 353-2318, of the incident or Site conditions.

Respondent shall submit a written report to EPA within seven (7) business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondent shall also comply with any other notification requirements, including those in CERCLA section 103, 42 U.S.C. § 9603, and section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

VI. AUTHORITY OF THE EPA ON-SCENE COORDINATOR

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by EPA or Respondent at the Site. Absence of the OSC

from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

EPA and Respondent shall have the right to change their designated OSC or Project Coordinator. EPA shall notify the Respondent, and Respondent shall notify EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be made orally, but shall be followed promptly by written notice.

VII. PENALTIES FOR NONCOMPLIANCE

Violation of any provision of this Order may subject Respondent to civil penalties of up to \$25,000 per violation per day, as provided in section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondent may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondent violate this Order or any portion hereof, EPA may carry out the required actions unilaterally, pursuant to section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to section 106 of CERCLA, 42 U.S.C. § 9606.

VIII. REIMBURSEMENT OF COSTS

Respondent shall reimburse EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondent's implementation of the requirements of this Order. EPA may submit to Respondent on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. EPA's Itemized Cost Summary, or such other summary as certified by EPA, shall serve as the basis for payment.

Respondent shall, within thirty (30) days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Superfund Accounting
P.O. Box 70753
Chicago, Illinois 60673

Respondent shall simultaneously transmit a copy of the check to the Director, Waste Management Division, U.S. EPA Region V, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - West Roosevelt Road Drum Site" and shall reference the payor's name and address, the EPA site identification number (ON), and the docket number of this Order.

Interest at a rate established by the Department of the Treasury pursuant to 31 U.S.C. § 3717 and 4 CFR § 102.13 shall begin to accrue on the unpaid balance from the day after the expiration of the 30 day period notwithstanding any dispute or an objection to any portion of the costs.

IX. RESERVATION OF RIGHTS

Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

X. OTHER CLAIMS

By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or EPA shall not be a party or be held out as a party to any contract entered into by the Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order.

This Order does not constitute a pre-authorization of funds under section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondent or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a).

XI. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within seven (7) business days; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of the

Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Waste Management Division, Region V.

If Respondent seeks permission to deviate from any approved plan or schedule, Respondent's Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondent shall relieve Respondent of its obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

XII. NOTICE OF COMPLETION

After submission of the Final Report, Respondent may request that EPA provide a Notice of Completion of the work required by this Order. If EPA determines, after EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention), EPA will provide notice to the Respondent. If EPA determines that any removal activities have not been completed in accordance with this Order, EPA will notify the Respondent, provide a list of the deficiencies, and require that Respondent modify the Work Plan to correct such deficiencies. The Respondent shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

XIII. ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting these removal actions is available for review during normal business hours in the EPA Record Center, Region V, 77 W. Jackson Blvd., Seventh Floor, Chicago, Illinois. Respondent may contact Andrew Warren, Assistant Regional Counsel, at (312) 353-5485 to arrange to review the Administrative Record. An index of the Administrative Record is attached to this Order.

XIV. OPPORTUNITY TO CONFER

Within three (3) business days after issuance of this Order, Respondent may request a conference with EPA. Any such conference shall be held within five (5) business days from the date of the request, unless extended by agreement of the parties. At any

conference held pursuant to the request, Respondent may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondent may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondent may submit any information, arguments or comments in writing to EPA within two (2) business days following the conference, or within seven (7) business days of issuance of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondent a right to seek review of this Order. Requests for a conference shall be directed to Andrew Warren, Assistant Regional Counsel, at (312) 353-5485. Written submittals shall be directed as specified in Section V.2 of this Order.

XV. SEVERABILITY

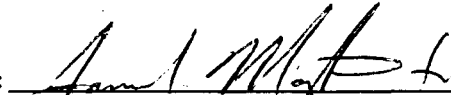
If a court issues an order that invalidates any provision of this Order or finds that Respondent has sufficient cause not to comply with one or more provisions of this Order, Respondent shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XVI. EFFECTIVE DATE

This Order shall be effective ten (10) business days following issuance unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective five (5) business days after the day of the conference.

IT IS SO ORDERED

BY: _____


William E. Munoz, Director
Waste Management Division
United States
Environmental Protection Agency
Region V

DATE: _____

4/27/85